

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL A. JACKSON,  
Plaintiff,  
v.  
PAT GLEBE, *et al.*,  
Defendants

Case No. C08-5769 BHS/KLS

## REPORT AND RECOMMENDATION

**NOTED FOR:  
May 29, 2009**

This case was referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff filed a civil rights complaint under 42 U.S.C. § 1983, but failed to pay a filing fee or file an application to proceed *in forma pauperis*. Dkt. # 1. To file a complaint and initiate legal proceedings, a plaintiff must pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*. Accordingly, Plaintiff was ordered to file an application to proceed *in forma pauperis* or pay the filing fee. Dkt. # 3. Plaintiff has not responded to the Court's Order.

## I. DISCUSSION

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).

Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. *See Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex. 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa. 1974).

1 On December 29, 2008, Plaintiff filed his proposed petition for civil rights violation. Dkt. # 1.  
2 On January 8, 2009, the Clerk advised Plaintiff that he must submit either the full \$350.00 filing fee or an  
3 application for *in forma pauperis* status by February 9, 2009 or his action may be subject to dismissal.  
4 Dkt.# 2. On March 13, 2009, the Court ordered the Plaintiff to pay the \$350.00 filing fee or submit a  
5 proper application to proceed *in forma pauperis* no later than April 3, 2009. Dkt. # 3. The Court advised  
6 Plaintiff that his failure to either pay the filing fee or submit a proper application to proceed *in forma*  
7 *pauperis* by the April 3, 2009 deadline would be deemed a failure to properly prosecute this matter and  
8 that the undersigned would recommend dismissal of this matter. *Id.* Plaintiff did not respond to the  
9 Court's Order, pay the filing fee or submit an application to proceed *in forma pauperis*.

## II. CONCLUSION

11 The undersigned recommends the Court dismiss Plaintiff's Complaint unless he pays the required  
12 \$350.00 fee **within thirty (30) days** of the Court's order.

13 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties shall  
14 have ten (10) days from service of this Report and Recommendation to file written objections thereto. *See*  
15 *also* Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of  
16 appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P.  
17 72(b), the Clerk is directed to set this matter for consideration on **May 29, 2009**, as noted in the caption.

19 Dated this 6th day of May, 2009.

  
Karen L. Strombom  
Karen L. Strombom  
United States Magistrate Judge